

BOARD OF APPEALS CASE NO. 5095

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BEFORE THE

APPLICANT: Barbara Kolch

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ZONING HEARING EXAMINER

**REQUEST: Variance to enclose an existing
screened porch with glass within the rear yard
setback; 2041 Brady Drive, Forest Hill**

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OF HARFORD COUNTY

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Hearing Advertised

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Aegis: 11/8/00 & 11/15/00

HEARING DATE: December 18, 2000

Record: 11/10/00 & 11/17/00

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ZONING HEARING EXAMINER'S DECISION

The Applicant, Barbara J. Kolch, is seeking a variance pursuant to Section 267-36B, Table V, of the Harford County Code, to enclose a screened porch with glass within the 40 foot rear yard setback (30 feet existing) in an R2 Urban Residential/Conventional with Open Space (R2/COS) District.

The subject parcel is located at 2041 Brandy Drive and is more particularly identified on Tax Map 40, Grid 2D, Parcel 407, Lot 341. The parcel consists of 3,632 square feet, is zoned R2/COS and is entirely within the Third Election District.

The Applicant appeared and testified that she is the owner of the subject parcel and that she intends to enclose her existing screened in porch. She suffers allergies and cannot make much use out of the porch unless it is enclosed. The enclosure will not increase or decrease the size of the existing porch area and siding and roofing materials will match the existing home. To the rear of the property is an area of open space which acts as an additional divider between her home and the home to the rear. The Applicant testified that the house to the rear of her is approximately 100 feet away from her house and the proposed enclosure. The Applicant stated that her enclosure would not adversely impact any neighboring properties and would be consistent with similar enclosures in the area.

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Mr. Anthony McClune testified on behalf of the Department of Planning and Zoning and indicated that the Department supported the Applicant's request. Mr. McClune stated that the presence of a large open space area behind the subject property made this situation unique and that the area of open space acted to extend the setback sufficiently to be in general compliance with the intent of the zoning code. Mr. McClune also pointed out that this would not be a new structure, simply the same structure with glass instead of screens.

There were no persons appearing in opposition to the request.

CONCLUSION:

Section 267-36B, Table V, requires enclosed additions to maintain a minimum 40 foot rear yard setback. In this case the applicant is seeking a variance allowing a setback reduced to 30 feet.

The Harford County Code, pursuant to 267-11 permits variances and provides:

"Variances from the provisions or requirements of this Code may be granted if the Board finds that:

- (1) By reason of the uniqueness of the property or topographical conditions, the literal enforcement of this Code would result in practical difficulty or unreasonable hardship.
- (2) The variance will not be substantially detrimental to adjacent properties or will not materially impair the purpose of this Code or the public interest."

In the instant case, the Applicant built an unenclosed porch area several years ago. The Code allows an unenclosed porch or deck structure to encroach 25% into the rear yard setback so the existing structure was permitted. However, the rules change when one simply removes the screens and replaces them with windows. Even though the structure itself is not changing size or location, a variance is nonetheless required.

Based on the facts presented, the Hearing Examiner is satisfied that the property is unique and that enclosing the existing structure will not impair the purpose of the Code, adversely impact neighboring properties or create a health or safety concern.

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The Hearing Examiner recommends approval, subject to the condition that the Applicant obtain any and all necessary permits and inspections.

Date JANUARY 17, 2001

William F. Casey
Zoning Hearing Examiner